

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Brittany Bentley Individually and as Administratrix of the Estate of Wyatt Bentley, Deceased [REDACTED] Medina, OH 44256 Plaintiff, vs. United States of America c/o Justin E. Herdman United States Attorney 801 W Superior Avenue, Suite 400 Cleveland, OH 44113 Defendant.	CASE NO.: JUDGE:
	<u>COMPLAINT IN NEGLIGENCE/WRONFUL DEATH</u>

Now comes Plaintiff, Brittany Bentley, Individually and as Administratrix of the Estate of Wyatt Bentley, deceased, by and through her attorneys, and for her Complaint against the Defendant states as follows:

JURISDICTION AND VENUE

1. This court has jurisdiction over this claim against the United States for money damages pursuant to 28 U.S.C. §1346(b)(1).

2. Pursuant to 28 U.S.C. §1402(b) and §1391(e)(1), venue is proper in the Northern District of Ohio because the acts or omissions giving rise to the claim occurred in the Northern District of Ohio, and Plaintiff Brittany Bentley resides in the Northern District of Ohio.

3. This action for wrongful death is brought by Brittany Bentley, Individually and as Administratrix of the Estate of Wyatt Bentley, for the benefit of Wyatt Bentley's next of kin who includes but is not limited to parents, Brittany Bentley and Brian Bargar, and siblings, [REDACTED] and [REDACTED], pursuant to Ohio Revised Code §2125.01-02.

4. At the time of the accident which gives rise to this lawsuit, Jeremy Taylor was participating in a training mission for the Ohio National Guard and therefore this claim is covered under the Federal Tort Claim Act pursuant to CFR §536.97.

PARTIES

5. Wyatt Thor Bentley was born on December 21, 2009 in Beaufort, South Carolina to Brittany Bentley and Brian Bargar. Wyatt Bentley was a resident of Medina County, Ohio on the date of the accident which gives rise to this lawsuit.

6. Brittany Bentley is the natural mother of Wyatt Bentley and the duly appointed, qualified, and acting Administratrix of the Estate of Wyatt Bentley having been appointed by the Probate Court of Medina County, Ohio, Case Number Case 2016 10 WD 00011. Her address is 8439 Stone Road, Medina, OH 44256.

7. At the time of the accident which gives rise to this lawsuit, Wyatt Bentley resided with his mother and two sisters, [REDACTED] and [REDACTED], in Medina County, Ohio.

8. The United States of America employed Jeremy Taylor through the Ohio National Guard. Jeremy Taylor was acting in the course and scope of employment with the Ohio National Guard at the time of the accident which gives rise to this lawsuit.

STATEMENT OF FACTS

9. On September 10, 2016, Jeremy Taylor was on a training mission in the course and scope of employment with the Ohio National Guard and was the operator of a United States military Humvee traveling in a convoy from Camp Perry in Port Clinton, Ohio to Camp Ravenna in Ravenna, Ohio.

10. Wyatt Bentley was a passenger in a 2015 Kia Optima driven by his father, Bryan Bargar, traveling westbound on State Route 14 approaching Lake Rockwell Road in Ravenna Township, Ohio.

11. As Jeremy Taylor drove eastbound on State Route 14 at or near Lake Rockwell Road in Ravenna Township, Ohio, his vehicle veered left of center and struck the vehicle in which Wyatt Bentley was a passenger.

12. As a result of the violent collision, Wyatt Bentley suffered fatal injuries.

13. The Ohio State Highway Patrol and Introtech Crash Reconstruction each performed an accident reconstruction; both determined that Jeremy Taylor was the proximate cause of the subject fatal collision.

14. The Ohio National Guard performed their own investigation of the crash and listed numerous findings that contributed to the collision at issue including, but not limited to: Jeremy Taylor's inexperience with operating the Humvee involved, the lack of the Ohio National Guard's verification of the vehicle drivers or log books, insufficient rest/sleep by Jeremy Taylor,

and the Ohio National Guardsmen's deviation from the original plan. The investigation findings do not state that any vehicle other than Jeremy Taylor's Humvee contributed to the collision.

15. On June 8, 2018, Brittany Bentley, individually and as Administratrix of the Estate of Wyatt Bentley, filed a Standard Form 95 with the Office of the Staff Judge Advocate, US Army Cadet Command and Fort Knox, for the wrongful death of her son, Wyatt Bentley, which was received by the Staff Judge Advocate on June 11, 2018.

16. On August 6, 2018, William F. Ridlon, Claims Attorney with the U.S. Army Cadet Command and Fort Knox, acknowledged receipt of the Standard Form 95 for the Estate of Wyatt Bentley, and indicated that the claim was being processed.

17. The Defendant, United States of America, has not made an offer or otherwise indicated a desire to resolve this matter presuit. As more than six months have passed since the filing of the Standard Form 95, Brittany Bentley, individually and as Administratrix of the Estate of Wyatt Bentley, brings this action pursuant to 28 USC §2675.

18. Pursuant to 28 U.S.C. §2679, Brittany Bentley, Individually and as Administratrix of the Estate of Wyatt Bentley's, exclusive remedy against Jeremy Taylor for his negligence is to proceed in Federal Court against the United States of America.

CAUSES OF ACTION

Count I
(Wrongful Death)

19. Plaintiff realleges all paragraphs as though fully rewritten herein.
20. Jeremy Taylor was negligent in the operation of his military Humvee.
21. Jeremy Taylor was acting within the scope of his office or employment with the Defendant, United States of America, through the Ohio National Guard under circumstances

where the United States of America, if a private person, would be liable to Plaintiff in accordance with the laws of the State of Ohio. *See* 28 U.S.C. § 1346(b).

22. As a direct and proximate result of the negligence of Jeremy Taylor, Wyatt Bentley suffered fatal injuries as well as suffering serious physical and emotional injuries, including fear, shock, and pre-impact terror.

23. By reason of the negligence of The United States through The National Guard, the Plaintiff, Brittany Bentley, and the next of kin of Wyatt Bentley, deceased, have sustained damages and losses including but not limited to medical and hospital bills, funeral and burial expenses, mental anguish, medical bills for the next of kin's psychologic treatment and consultation, and the loss of services and society of Wyatt Bentley, as further described in Ohio Revised Code § 2125.01, et seq., (the Ohio Wrongful Death Statute).

WHEREFORE, Plaintiff, Brittany Bentley, Individually and as Administratrix of the Estate of Wyatt Bentley, deceased, demands judgment against the Defendant as follows:

- a. Compensatory damages in the amount of six million dollars (\$6,000,000.00) together with interest and costs incurred in this action plus attorney's fees; and
- b. Such other and further relief to which this Plaintiff may be entitled.

Respectfully submitted,

KISLING, NESTICO & REDICK, LLC



John J. Reagan (0067389)
Kimberly L. Lubrani (0088031)
3412 W. Market Street
Akron, OH 44333
Phone: 330.869.9007 /Fax: 330.869.9008
Reagan@knrlegal.com / klubrani@knrlegal.com
Attorneys for Plaintiff